

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

IN THE MATTER OF:

**KENNETH HINES,**

**MARSHA HINES,**

Debtor(s)

Case No: B-1080695 C-13D

OBJECTION BY STANDING TRUSTEE TO CONFIRMATION OF PLAN

NOW COMES Richard M. Hutson, II, Standing Trustee ("Trustee") and respectfully objects to confirmation of the Debtors' plan pursuant to 11 U.S.C. §1325 and shows unto the Court the following:

1. The Debtors filed a petition under Title 11 of the United States Code, Chapter 13, on April 21, 2010, in the United States Bankruptcy Court for the Middle District of North Carolina.
2. On April 21, 2010, Richard M. Hutson, II, was appointed as Trustee.
3. This Court has proper and personal jurisdiction of the subject matter hereof and over the parties pursuant to 28 U.S.C. §§151, 157 and 1334, and the Standing Order entered by the United States District Court for the Middle District of North Carolina and this is a core proceeding within 28 U.S.C. §157(b).
4. The original plan filed by the Debtors proposed a monthly payment of \$1,583.00 per month for a period of 60 months. The Debtors proposed to modify the mortgage of BAC Home Loans ("BAC") pursuant to 11 U.S.C. §1322(b)(2) by re-amortizing the mortgage loan over the remaining term with monthly payments of \$1,103.00 for principal, interest, and escrow and to capitalize any arrearage into the loan.
5. BAC objected to confirmation of the Debtors' original plan. A hearing was held on January 6, 2011 and confirmation was denied by Order entered on January 21, 2011.
6. The Debtors filed an amended plan on March 4, 2011. The Debtors now propose to pay BAC as a secured, long-term debt through the plan and to cure any arrearage claim.

7. BAC filed a claim secured by the Debtors' real property in the amount of \$157,503.36. BAC has asserted ongoing monthly payments of \$1,330.44 and an arrearage through October of 2010 in the amount of \$10,708.88.
8. The Debtors' amended plan provides that the claim of Citifinancial secured by a 2007 Suzuki ("the automobile") shall be paid as secured in the amount of \$12,465.00 with interest at the rate of 5.25% per annum in equal monthly installments of \$260.34.
9. The Trustee objects to confirmation of the amended plan in that the Debtors' proposed plan payments are not sufficient to satisfy the long-term debt of BAC, the arrearage claim of BAC, the payments to Citifinancial, and all other secured claims within the 60 month time limit of 11 U.S.C. §1322(d).

WHEREFORE, the Trustee prays the Court for an Order as follows:

1. That the Debtor's plan not be confirmed in that the plan does not comply with 11 U.S.C. §1325 and the case be dismissed for cause pursuant to 11 U.S.C. §1307; or
2. For such other and further relief as the Court may deem just or proper.

This the 7<sup>th</sup> day of March, 2011.

s/Benjamin E. Lovell  
Benjamin E. Lovell  
Attorney for the Trustee  
State Bar No: 23266  
P.O. Box 3613  
Durham, N.C. 27702

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing document upon John T. Orcutt, Esq., 6616-203 Six Forks Rd., Raleigh, NC 27615, Kenneth & Marshal Hines, 2035 Spring Creek, Dr., Durham, NC 27704, and Michael D. West, Esq., U.S. Bankruptcy Administrator, PO Box 1828, Greensboro, NC 27402 by depositing a copy of same in the United States Mail, postage prepaid, and in the manner prescribed by Rule 5 of the Federal Rules of Civil Procedure.

This 8<sup>th</sup> day of March 2011.

s/Benjamin E. Lovell  
Benjamin E. Lovell, Esq.  
Attorney for the Standing Trustee